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6 Attorneys for Receiver  
7 THOMAS A. SEAMAN

8 **UNITED STATES DISTRICT COURT**  
9 **NORTHERN DISTRICT OF CALIFORNIA**  
10 **SAN JOSE DISTRICT**

11 SECURITIES AND EXCHANGE  
COMMISSION,

12 Plaintiff,

13 vs.

14 SMALL BUSINESS CAPITAL CORP.;  
15 MARK FEATHERS; INVESTORS PRIME  
FUND, LLC; and SBC PORTFOLIO  
FUND, LLC,

17 Defendants.

Case No. CV12-03237

**RECEIVER'S RESPONSE TO REQUEST  
FOR A DETERMINATION FROM THIS  
COURT IF THE RECEIVER HAS  
COMMITTED AN ACT OF GROSS  
NEGLIGENCE AND IF THE RECEIVER  
HAS LOST PERSONAL LIABILITY  
PROTECTION AFFORDED TO HIM  
UNDER SECTION XIII OF THE ORDER  
FOR HIS APPOINTMENT (COURT  
DOCKET 34)**

18 Date: February 6, 2014  
19 Time: 9:00 a.m.  
Ctrm: 4 - 5th Floor  
Judge: Hon. Edward J. Davila

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1           Thomas A. Seaman ("Receiver"), the Court-appointed permanent receiver for Small  
 2 Business Capital Corp. ("SB Capital"), Investors Prime Fund, LLC ("IPF"), SBC Portfolio  
 3 Fund, LLC ("SPF"), and their subsidiaries and affiliates (collectively, "Receivership Entities"),  
 4 hereby responds to Defendant Mark Feathers' request for a determination from this Court if the  
 5 Receiver has committed an act of gross negligence and if the Receiver has lost personal liability  
 6 protection afforded to him under Section XIII of the Order for his appointment (Court Docket 34).

7           Mr. Feathers has not and cannot present evidence of any act of gross negligence by the  
 8 Receiver. Accordingly, the Receiver respectfully submits Mr. Feathers' requests should be  
 9 denied.

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11 Dated: October 2, 2014

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP

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By: \_\_\_\_\_ /s/ Ted Fates

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TED FATES  
Attorneys for Receiver  
Thomas A. Seaman

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## **PROOF OF SERVICE**

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 501 West Broadway, 15th Floor, San Diego, California 92101-3541.

4 On October 2, 2014, I served on interested parties in said action the within:

- RECEIVER'S RESPONSE TO REQUEST FOR A DETERMINATION FROM THIS COURT IF THE RECEIVER HAS COMMITTED AN ACT OF GROSS NEGLIGENCE AND IF THE RECEIVER HAS LOST PERSONAL LIABILITY PROTECTION AFFORDED TO HIM UNDER SECTION XIII OF THE ORDER FOR HIS APPOINTMENT (COURT DOCKET 34)

- 8  **BY U.S. MAIL:** by placing a true copy thereof in sealed envelope(s), addressed as  
9 indicated below. I am readily familiar with this firm's practice of collection and processing  
10 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal  
11 Service in San Diego County on that same day in the ordinary course of business. I am  
aware that on motion of party served, service is presumed invalid if postal cancellation  
date or postage meter date is more than one day after date of deposit for mailing in  
affidavit.

Mark Feathers  
1520 Grant Road  
Los Altos, California 94024

*Pro Se Defendant*

Tel: (650) 776-2496

Fax: (650) 961-2382

Email: markfeathers@sbcglobal.net

- 15  **BY OVERNIGHT DELIVERY:** by placing a true copy thereof in sealed envelope(s),  
16 addressed as indicated below. I am readily familiar with this firm's practice of collection  
17 and processing correspondence for mailing. Under that practice it would be deposited in a  
18 box or other facility regularly maintained by express service carrier, or delivered to a  
courier or driver authorized by said express service carrier to receive documents, a true  
copy of the foregoing document(s) in sealed envelopes or packages designated by the  
express service carrier, with fees for overnight delivery paid or provided for.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 2, 2014, at San Diego, California.

Ted Fates  
(Type or print name)

/s/ Ted Fates  
(Signature)